

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Brian Price and Kathleen Price

(b) County of Residence of First Listed Plaintiff Delaware Co., PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Bruce Martin Ginsburg
2112 Walnut St., Philadelphia, PA 19103 215-564-4400

DEFENDANTS

Charles Harding

County of Residence of First Listed Defendant Sussex Co., Delaware
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332 DiversityBrief description of cause:
Motor vehicle accident**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/3/08

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 43 Dorset Road, Glens Mills, PA

Address of Defendant: 23501 Earnhardt Blvd., Milford, DE 19963

Place of Accident, Incident or Transaction: SR 202, Chadds Ford Township, Delaware Co., PA
(Use Reverse Side For Additional Space)

No

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☒ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Bruce Martin Ginsburg, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 12/3/08

Bruce Martin Ginsburg
Attorney-at-Law

22187

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/3/08

Bruce Martin Ginsburg
Attorney-at-Law

22187

Attorney I.D.#

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Brian Price and Kathleen Price	:	CIVIL ACTION
	:	
v.	:	
	:	
Charles Harding	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

<u>12/3/08</u> Date	<u>Bruce Martin Ginsburg</u> Attorney-at-law	<u>Plaintiff</u> Attorney for
<u>215-564-4400</u> Telephone	<u>215-564-4585</u> FAX Number	<u>bginsburg@ginsburg-law.com</u> E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**BRIAN PRICE and
KATHLEEN PRICE**

43 Dorset Road
Glen Mills, PA 19342

Plaintiff,

vs.

CHARLES HARDING

23501 Earnhardt Blvd.,
Milford, DE 19963

Defendant.

CIVIL ACTION COMPLAINT

No.:

THE PARTIES

1. Plaintiffs, BRIAN PRICE and KATHLEEN PRICE, are husband and wife and adult individuals who reside at 43 Dorset Road, Glen Mills, PA. 19342 and are citizens of Pennsylvania.

2. Defendant, CHARLES HARDING, is an adult individual residing at 23501 Earnhardt Blvd., Milford, DE. and is a citizen of Delaware.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

4. Venue over this action is appropriate in this matter pursuant to 28 U.S.C. 1391(a)(2), in the United States District Court for the Eastern District of Pennsylvania

because the Eastern District of Pennsylvania is where a substantial part of the events or omissions giving rise to the claim occurred.

5. The amount in controversy does exceed \$75,000.00.

6. Plaintiffs hereby demand a trial by jury.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

7. On or about May 25, 2007, Plaintiff, BRIAN PRICE, did drive, operate, possess and control a motor vehicle, a 2005 Ford Explorer, bearing PA License Plate Number EPS3355.

8. On or about May 25, 2007, Defendant, CHARLES HARDING, did own, manage, drive, operate, possess and control a motor vehicle, a 2002 Kenworth W90, bearing DE License Plate Number CL111552.

9. On or about May 25, 2007, at approximately 11:45 a.m., at or near southbound SR 202, Chadds Ford Township, Delaware County, Pennsylvania, Defendant, CHARLES HARDING, so negligently and/or carelessly operated his vehicle so as to so as to violently collide into the rear of Plaintiff's vehicle, as Plaintiff lawfully proceeded southbound on SR 202, causing Plaintiff, BRIAN PRICE, to sustain the injuries and other losses hereinafter more fully set forth.

10. Plaintiff, BRIAN PRICE, alleges that an insufficient amount of time has passed within which to determine the identity of any other persons or business entities who may be responsible for the causation of the accident.

11. The injuries resulted solely from the negligence and/or carelessness of Defendant, CHARLES HARDING, and were in no manner whatsoever due to any act or failure to act on the part of the Plaintiff, BRIAN PRICE.

COUNT I - NEGLIGENCE
BRIAN PRICE v. CHARLES HARDING

12. Plaintiff, BRIAN PRICE, incorporates by reference paragraphs 1 through 11, as fully as though each were set forth herein at length.

13. The collision was caused solely by reason of the negligence and/or carelessness Defendant, CHARLES HARDING, and in addition to the aforementioned, consisted of the following:

- a. Operating a vehicle at a high and dangerous rate of speed under the circumstances;
- b. Failing to have said vehicle under proper control at that time;
- c. Failure to use the highest degree of skill in the operation of a vehicle;
- d. Failing to keep a proper distance from other vehicles;
- e. Failing to keep a proper lookout for others lawfully using said road;
- f. Continuing to operate said vehicle in a direction toward the Plaintiff, when he saw or in the exercise of reasonable diligence should have seen that further operation in that direction would result in a collision;
- g. Failing to stop his vehicle upon the shortest possible notice; and

h. Upon information and belief and subject to discovery, operating a vehicle in violation of the laws and ordinances of the Chadds Ford Township, Delaware County and the Commonwealth of Pennsylvania.

14. The injuries suffered by Plaintiff, BRIAN PRICE, in the motor vehicle collision more specifically described in this complaint have resulted in serious impairment of bodily function, including but not limited to: C4-5, C5-6 and C6-7 disc herniation; L5-S1 disc protrusion; T5-6, T6-7, T7-8, T8-9, T9-10 disc bulging; cervical, thoracic and lumbar strain and sprain; radiculopathy; post traumatic concussion with associated cephalgia and eye pressure; rib strain and sprain as well as, other injuries as may be diagnosed by Plaintiff's health care providers, all of which injuries have in the past and may in the future, cause Plaintiff great pain and suffering.

15. As a further result of the negligence and/or carelessness of the Defendant, CHARLES HARDING, as aforesaid, Plaintiff, BRIAN PRICE, has and will be obliged to receive and undergo medical attention and care and to expend various sums of money and to incur various expenses, and he may be obliged to continue to expend such sums and to incur such expenditures for an indefinite period of time in the future, to his great detriment and loss.

16. As a further result of the negligence and/or carelessness, of the Defendant, CHARLES HARDING, as aforesaid, Plaintiff, BRIAN PRICE, has suffered agonizing aches, severe physical pains, disability, mental anguish and humiliation and will continue to suffer same for an indefinite time in the future, to Plaintiff's great detriment and loss.

17. As a result of the negligence and/or carelessness of the Defendant, CHARLES HARDING, as aforesaid, Plaintiff, BRIAN PRICE, may or will suffer a loss of earnings, and impairment of earning capacity and power, and will continue to incur same in the future.

WHEREFORE, Plaintiff, BRIAN PRICE, demands judgment against Defendant, CHARLES HARDING, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, plus interest and costs of suit.

COUNT II – SPOUSAL LOSS OF CONSORTIUM
KATHLEEN PRICE v CHARLES HARDING

18. Plaintiff, KATHLEEN PRICE, hereby incorporates by reference paragraphs 1 through 17, as though same were fully set forth at length herein.

19. Solely as a result of the aforesaid negligence and/or carelessness of Defendant, CHARLES HARDING, Plaintiff, KATHLEEN PRICE, as spouse of Plaintiff, BRIAN PRICE, has been deprived of the society, companionship, aid, assistance, earnings and consortium of said spouse, all of which have, and may in the future continue to cause great emotional and financial loss and damage.

WHEREFORE, Plaintiff, KATHLEEN PRICE, demands judgment against Defendant, CHARLES HARDING, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, plus interest and costs of suit.

GINSBURG & ASSOCIATES

By 

BRUCE MARTIN GINSBURG, ESQUIRE

2112 Walnut Street

Philadelphia, PA 19103

(215) 564-4400

IDENTIFICATION NO.: 22187

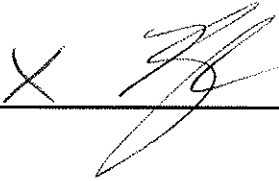
Attorney for Plaintiffs:

BRIAN PRICE and PATRICIA PRICE

Dated:

VERIFICATION

Plaintiff verifies that the statements made in this pleading are true and correct to the best of plaintiff's knowledge, information and belief. To the extent that the pleading contains averments of law and language of counsel and results of investigation, plaintiff has relied on counsel. Plaintiff understands that false statements herein are made subject to penalties of 18 Pa. §4904, relating to unsworn falsification to authorities.

X  _____